

House File 754

H-1146

1 Amend House File 754 as follows:

2 1. By striking everything after the enacting clause and  
3 inserting:

4 <Section 1. Section 91A.5, subsection 1, unnumbered  
5 paragraph 1, Code 2021, is amended to read as follows:

6 An employer shall have the burden to establish that a  
7 deduction from employee wages is lawful. An employer shall not  
8 withhold or divert any portion of an employee's wages unless:

9 Sec. 2. Section 91A.5, subsection 1, paragraph b, Code 2021,  
10 is amended to read as follows:

11 *b.* The employer ~~has~~ obtains advance written authorization  
12 from the employee to so deduct for any lawful purpose accruing  
13 to the benefit of the employee.

14 Sec. 3. Section 91A.6, subsection 1, Code 2021, is amended  
15 to read as follows:

16 1. An employer shall ~~after being notified by the~~  
17 ~~commissioner pursuant to~~ subsection 2 do the following:

18 *a.* Notify its employees in writing at the time of hiring  
19 what wages and regular paydays are designated by the employer.

20 *b.* Notify its employees in writing whose wages are  
21 determined based on a task, piece, mile, or load basis about  
22 the method used to calculate wages and when the wages are  
23 earned by the employees.

24 ~~*b.*~~ *c.* Notify, at least one pay period prior to the  
25 initiation of any changes, its employees of any changes in  
26 the arrangements specified in this subsection ~~±~~ that reduce  
27 wages or alter the regular paydays. The notice shall either  
28 be in writing or posted at a place where employee notices are  
29 routinely posted.

30 ~~*c.*~~ *d.* Make available to its employees upon written request,  
31 a written statement enumerating employment agreements and  
32 policies with regard to vacation pay, sick leave, reimbursement  
33 for expenses, retirement benefits, severance pay, or other  
34 comparable matters with respect to wages. Notice of such  
35 availability shall be given to each employee in writing or by a

1 notice posted at a place where employee notices are routinely  
2 posted.

3 ~~d.~~ e. Establish, maintain, and preserve for three  
4 calendar years the payroll records showing the hours worked,  
5 wages earned, and deductions made for each employee and  
6 any employment agreements entered into between an employer  
7 and employee. Failure to do so shall raise a rebuttable  
8 presumption that the employer did not pay the required minimum  
9 wage under section 91D.1.

10 Sec. 4. Section 91A.6, subsection 2, Code 2021, is amended  
11 by striking the subsection.

12 Sec. 5. Section 91A.6, subsection 4, Code 2021, is amended  
13 by striking the subsection and inserting in lieu thereof the  
14 following:

15 4. *a.* On each regular payday, the employer shall provide  
16 to each employee a statement showing the wages earned by  
17 the employee, the deductions made for the employee, and the  
18 following information, as applicable:

19 (1) For each employee paid in whole or in part on an hourly  
20 basis, the statement shall show the hours the employee worked.

21 (2) For each employee paid based on a percentage of sales or  
22 based on a percentage of revenue generated for the employer,  
23 the statement shall include a list of the amount of each sale  
24 or the amount of revenue during the pay period.

25 (3) For each employee whose pay is based on the number  
26 of miles or loads performed, the statement shall include the  
27 applicable number performed during the pay period.

28 *b.* The employer shall provide the statement using one of the  
29 following methods:

30 (1) Sending the statement to an employee by mail.

31 (2) Providing the statement to an employee by secure  
32 electronic transmission or by other secure electronic means.

33 If an employee is unable to receive the statement by this  
34 method, the employee shall notify the employer in writing at  
35 least one pay period in advance, and the employer shall provide

1 the statement by one of the other methods listed in this  
2 paragraph "b".

3 (3) Providing the statement to the employee at the  
4 employee's normal place of employment during normal employment  
5 hours.

6 (4) Providing each employee access to view a statement  
7 of the employee's earnings electronically and providing the  
8 employee free and unrestricted access to a printer to print the  
9 statement.

10 Sec. 6. Section 91A.8, Code 2021, is amended to read as  
11 follows:

12 **91A.8 Damages recoverable by an employee.**

13 When it has been shown that an employer has intentionally  
14 failed to pay an employee wages or reimburse expenses pursuant  
15 to [section 91A.3](#), whether as the result of a wage dispute or  
16 otherwise, the employer shall be liable to the employee for  
17 any the unpaid wages or unreimbursed expenses that are so  
18 ~~intentionally failed to be paid or reimbursed~~, plus liquidated  
19 damages, court costs, and any attorney's attorney fees incurred  
20 in recovering the unpaid wages or unreimbursed expenses  
21 and determined to have been usual and necessary. ~~In other~~  
22 ~~instances the employer shall be liable only for unpaid wages or~~  
23 ~~expenses, court costs and usual and necessary attorney's fees~~  
24 ~~incurred in recovering the unpaid wages or expenses.~~

25 Sec. 7. Section 91A.10, subsection 5, Code 2021, is amended  
26 to read as follows:

27 ~~5. An employer shall not discharge or in any other manner~~  
28 ~~discriminate against any employee because the employee has~~  
29 ~~filed a complaint, assigned a claim, or brought an action under~~  
30 ~~this section or has cooperated in bringing any action against~~  
31 ~~an employer.~~

32 a. An employer or other person shall not discharge or in  
33 any other manner discriminate or retaliate against any of the  
34 following:

35 (1) An employee or other person for exercising any right

1 provided under this chapter or any rules adopted pursuant to  
2 this chapter.

3 (2) Another employee or person for providing assistance to  
4 an employee or providing information regarding the employee or  
5 person.

6 (3) Another employee or person for testifying or planning  
7 to testify in any investigation or proceeding regarding the  
8 employee or person.

9 b. Taking adverse action against an employee or other person  
10 within ninety days of an employee's or other person's engaging  
11 in any of the activities in paragraph "a" raises a presumption  
12 that such action was retaliation, which may be rebutted by  
13 evidence that such action was taken for other permissible  
14 reasons.

15 c. Any employee may file a complaint with the commissioner  
16 alleging discharge, ~~or~~ discrimination, or retaliation within  
17 thirty days after such violation occurs. Upon receipt of the  
18 complaint, the commissioner shall cause an investigation to be  
19 made to the extent deemed appropriate. If the commissioner  
20 determines from the investigation that the provisions of this  
21 subsection have been violated, the commissioner shall bring  
22 an action in the appropriate district court against such  
23 person. The district court shall have jurisdiction, for cause  
24 shown, to restrain violations of **this subsection** and order all  
25 appropriate relief including rehiring or reinstatement of the  
26 employee to the former position with back pay.

27 Sec. 8. Section 91A.10, Code 2021, is amended by adding the  
28 following new subsection:

29 NEW SUBSECTION. 6. A civil action to enforce subsection 5  
30 may also be maintained in any court of competent jurisdiction  
31 by the commissioner or by any party injured by a violation  
32 of subsection 5. An employer or other person who retaliates  
33 against an employee or other person in violation of subsection  
34 5 shall be required to pay the employee or other person  
35 an amount set by the commissioner or a court sufficient to

1 compensate the employee or other person and to deter future  
2 violations, but not less than one hundred fifty dollars for  
3 each day that the violation occurred.

4 Sec. 9. NEW SECTION. **91A.16 Commissions earned date.**

5 An employer shall not require that a person be a current  
6 employee to be paid a commission that the person otherwise  
7 earned.

8 Sec. 10. **EFFECTIVE DATE.** This Act takes effect January 1,  
9 2022.>

10 2. Title page, by striking lines 1 and 2 and inserting <An  
11 Act concerning wage payment collection issues arising between  
12 employers and employees, providing penalties and remedies, and  
13 including effective date provisions.>

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HUNTER of Polk